

Exhibit “EE” to Amended Verified Petition

TOWN OF MONTGOMERY
PLANNING BOARD
74 MAIN STREET
WALDEN, NEW YORK 12586-1788

RECEIVED

DEC - 7 1993

Law Office of Laura Zeisel

December 6, 1993

Mr. Alexander F. Ciesluk, Jr.
Deputy Regional Permit Administrator
Region 3
New York State Department of Environmental
Conservation
21 S. Putt Corners Road
New Paltz, New York 12561

RE: Application of Mehlon Trucking, Inc. for Mining Permit -
DEC Application No. 3-3342-22-2-0

Dear Mr. Ciesluk:

This letter with various enclosures is submitted in response to the November 19, 1993 letter to you from Laura Zeisel, Esq. It is our opinion that attorney Zeisel's letter is incorrect in several respects.

First, it is our understanding that despite the preemption contained in ECL 23-2703, our local permit jurisdiction remains as to the areas noted in Ms. Zeisel's letter.

Second, despite the above, it has been the recent practice of the Planning Board to suggest that the DEC assume Lead Agency status for the SEQOR review of a mining application. For the past few years, we have referred an applicant to the DEC for both coordinated SEQOR review and for procurement of the Article 23 permit. The applicant then returns to our Board for a public hearing and decision on the Special Use permit application which is limited to consideration of the issues left to local jurisdiction in light of the amendment to the State statute.

Third, on June 26, 1989 the Planning Board convened a public hearing. Many area residents voiced concerns relative to traffic (including the impacts to all of the Kings Hill Road surface), noise, dust, blasting and water tables. Moreover, copies of various letters, including our Town Planner's report dated July 26, 1989 were sent to Ms. Zeisel in December 1991 shortly after we were advised that she was now representing Mr. Mehlon.

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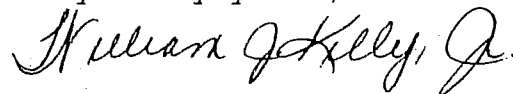
Therefore, Ms. Zeisel is incorrect with her assertion that the Town's primary concern related only to that portion of Kings Hill Road which crosses the New York City Aqueduct.

So that you may develop the proper background for this matter, we enclose copies of our attorney's December 6, 1991 letter to Ms. Zeisel as well as all of the enclosures listed in that letter.

The Town of Montgomery Planning Board has no objection to the DEC assuming Lead Agency status, however, we respectfully request that the SEQR review be coordinated as there exist several important issues which must be addressed in connection with this matter.

Kindly advise the position of the DEC at your earliest convenience.

Very truly yours,



William J. Kelly, Jr.
Planning Board Chairman

WJK:ctr

cc: Laura Zeisel, Esq.
Richard W. Hoyt, Esq.
Garling Associates
All Board Members
Ivan Jennings, Highway Superintendent